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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/284,222 07/22/99 TSUJIMOTO

H P990708

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IM52/0828

EXAMINER

DOVE, T

ART UNIT

PAPER NUMBER

18

1745

DATE MAILED:

08/28/01

DUE: 11-28-01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

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ATTY: WEV

DOCKET #: 113184-003

# Office Action Summary

Application No.

09/284,222

Applicant(s)

Tsujimoto et al.

Examiner

Tracy Dove

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 7 Jun 2001
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-9 and 12-16 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-9 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

This Office Action is in response to the communication filed on 6/7/01. Applicant's arguments have been considered, but are not persuasive. Claims 7-9 and 12-16 remain rejected in view of the prior art of record. This Action is made **FINAL**, as necessitated by amendment.

#### ***Claim Rejections - 35 U.S.C. § 112***

The rejection of claims 8 and 16 under 35 U.S.C. 112, second paragraph, have been withdrawn.

#### ***Claim Rejections - 35 U.S.C. § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koichiro, JP 9-213337.

See Office Action of 3/6/01 for the reasons for rejection. Note cancelled claims 10 and 11 have been incorporated into claim 7.

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Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koichiro, JP 9-213337 in view of Abe et al., JP 4-195201.

See Office Action of 3/6/01 for the reasons for rejection. Note cancelled claims 10 and 11 have been incorporated into claim 7.

***Response to Arguments***

Applicant's arguments filed 6/7/01 have been fully considered but they are not persuasive.

The 35 U.S.C. 102(a) rejection of claims 7-9 and 16 has been withdrawn.

The 35 U.S.C. 103(a) rejection of claims 7-9 and 12-16 is maintained.

**KOICHIRO**

Applicant argues claims 7-9 and 16 are not obvious in view of Koichiro. Specifically, Applicant argues that Koichiro does not teach or suggest the binder weight mixture ratio and binder weight percentage features of claim 7. Applicant states the Examiner admits the *abstract* does not teach the binder weight mixture ratio and binder weight percentage features of claim 7.

However, while the abstract does not disclose the binder weight mixture ratio, the body of the patent document teaches that polyvinylidene fluoride is at least 50% or greater of the binder material. See page 2, 2nd column, after [0009]. Koichiro teaches that the rubber polymer is 50% or less of the binder material. See page 3, 1st column, 2nd paragraph. Note these portions of the patent were orally translated by Steven Spar in the Patent Office Foreign Translation Branch on 6/22/01.

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Regarding the binder weight percentage of the negative electrode, one of skill in the art would know that the binder could be provided in an amount of 2-15 wt% of the negative electrode. The skilled artisan would know that the greater the wt% of binder in the active material the greater the reduction in the capacity of the battery. This results because the negative electrode contains less active material. One of skill would use binder amounts of 2-15 wt% in order to decrease the reduction in battery capacity.

KOICHIRO IN VIEW OF ABE ET AL.

Applicant argues Koichiro does not teach the cellulose derivative and graphite features of claims 12-15. Applicant argues Abe et al does not teach or suggest the binder weight mixture ratio and binder weight percent features of claim 7.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Conclusion***


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tracy Dove whose telephone number is (703) 308-8821. The Examiner may normally be reached *Monday, Wednesday & Thursday from 7:30 AM - 7:00 PM*. My supervisor is Gabrielle Brouillette, who can be reached at (703) 308-0756. The Art Unit receptionist can be reached at (703) 308-0661 and the official fax number is (703) 305-3599.

August 22, 2001

  
**CAROL CHANEY**  
**PRIMARY EXAMINER**